

ASSEMBLY BILL

No. 1081

Introduced by Assembly Member Ammiano

February 18, 2011

An act to add Chapter 17.1 (commencing with Section 7282) to Division 7 of Title 1 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1081, as introduced, Ammiano. State government: federal immigration policy enforcement.

Existing law, setting forth the findings and declarations of the Legislature, provides that all protections, rights, and remedies available under state law, except any reinstatement remedy prohibited by federal law, are available to all individuals regardless of immigration status who have applied for employment, or who are or who have been employed, within the state, and further provides that, for purposes of enforcing specified state laws, a person's immigration status is irrelevant to the issue of liability, and prohibits, in proceedings or discovery undertaken to enforce those state laws, an inquiry into a person's immigration status except where the person seeking to make the inquiry has shown by clear and convincing evidence that the inquiry is necessary in order to comply with federal immigration law.

This bill would state the findings and declarations of the Legislature with respect to a memorandum of agreement with the United States Department of Homeland Security, regarding the implementation of the Immigration and Customs Enforcement's Secure Communities program, that the Bureau of Criminal Identification and Information within the Department of Justice entered into on May 8, 2009. The bill

would require the bureau to modify that agreement, according to specified requirements, or to exercise its authority under the agreement to terminate the agreement.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 17.1 (commencing with Section 7282)
2 is added to Division 7 of Title 1 of the Government Code, to read:

3
4 CHAPTER 17.1. FEDERAL IMMIGRATION POLICY ENFORCEMENT
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6 7282. (a) The Legislature finds and declares all of the
7 following:

8 (1) Both the State of Washington and Washington, D.C., have
9 refused to enter into a memorandum of agreement with the United
10 States Department of Homeland Security regarding the Immigration
11 and Custom Enforcement's Secure Communities program because
12 the program undermines community policing and public safety.

13 (2) Pursuant to the program, federal officials have claimed the
14 authority to enforce federal immigration laws, and in particular,
15 the authority to detain individuals based on minimal contact with
16 law enforcement.

17 (3) Immigrant residents who are victims or witnesses to crime,
18 including domestic violence related crimes, are less likely to report
19 the crime or cooperate with law enforcement because any contact
20 with law enforcement could result in deportation, without regard
21 to whether the arrest was wrongful or the result of a mistake.

22 (b) It is the intent of the Legislature that the Bureau of Criminal
23 Identification and Information within the Department of Justice
24 modify the memorandum of agreement with the United States
25 Department of Homeland Security, regarding the implementation
26 of the Immigration and Customs Enforcement's Secure
27 Communities program, it entered into on May 8, 2009, as specified
28 in this act, thereby paying respect to the wishes of local
29 jurisdictions, including San Francisco, Santa Clara, and Berkeley,
30 which have actively worked for decades to build community trust
31 in law enforcement and have expressed concern that the Secure

1 Communities program has been deployed without adequate notice
2 or consent.

3 7282.1. (a) The Bureau of Criminal Identification and
4 Information within the Department of Justice shall modify the
5 memorandum of agreement with the United States Department of
6 Homeland Security, regarding the implementation of the
7 Immigration and Customs Enforcement's Secure Communities
8 program, entered into on May 8, 2009, in accordance with all of
9 the following requirements:

10 (1) The modified agreement shall authorize a local government
11 to participate in the Secure Communities program only upon the
12 passage of an ordinance or resolution authorizing participation by
13 the legislative body of the local government.

14 (2) The modified agreement shall require a local government
15 that opts to participate in the program, as provided in paragraph
16 (1), to submit to the Bureau of Criminal Identification and
17 Information within the Department of Justice a plan to guard
18 against, and monitor, racial profiling associated with the local
19 government's participation in the program.

20 (3) The modified agreement shall authorize local governments
21 to adopt reasonable exceptions to the implementation of the
22 program with respect to all of the following:

23 (A) Protections for domestic violence victims.

24 (B) Protections for juveniles.

25 (C) An explicit limitation on the sharing of fingerprints under
26 the program to those of individuals convicted, rather than merely
27 accused, of a crime.

28 (4) The modified agreement shall include, but not be limited
29 to, all of the following safeguards against racial profiling:

30 (A) A prohibition against the use of driver's license checkpoints
31 to obtain fingerprints for the purposes of the Secure Communities
32 program.

33 (B) A requirement that the Immigration and Customs
34 Enforcement establish a complaint mechanism that allows for
35 expedited review of claims by those put into immigration removal
36 proceedings prior to conviction as a result of the program.

1 (b) If the bureau is unable to fulfill the requirements of
2 subdivision (a), it shall exercise its authority under the agreement
3 to terminate the agreement.

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